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October 18

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CONCORD, N.H.

Mr. Edward C. Kelley, Buyer
Division of Purchase and Property
State House
Concord, New Hampshire

Dear Mr. Kelley:

This is in response to your letter of October 18, requesting our opinion as to the possibility of inserting a general penalty clause into the Legislative Printing Contract to insure prompt deliveries by the printer.

A clause penalizing the printer for failure to deliver at a specified time could be inserted in the contract. A fixed amount could be assessed for each day elapsing between the date specified in the contract and the actual date of delivery.

As a practical matter, however, it is not believed that such a clause would be workable unless substantial changes are made in your contract form. For example, it is noted that under paragraph A the printer is required to deliver printed bills to the Sergeant-at-Arms room by 8:30 A.M. on the day following receipt of copy. Since the contract contains no limitation on the amount of copy that can be given to the printer at any one time it would seem that this requirement might place an impassible burden on the printer. This would be especially true on days when some of the longer bills are turned over to the printer.

It is also noted that under paragraph C the printer is required to deliver completed bound volumes of the session laws to the Secretary of State within 45 days after adjournment. We understand that in the past the State has been unable to comply with this requirement because of the great number of bills passed at the very end of the legislative session. In 1955, for example, almost 300 pages of the Public Acts and Joint Resolutions were enacted on the last day of the session.

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Mr. Edward C. Kelley, Buyer

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In summary we advise that there is nothing illegal or improper about the penalty clause to which you referred but that unless exact deadlines are specified in the contract and unless these deadlines are reasonable little can be accomplished by the insertion of such a clause.

Very truly yours,

Elmer T. Bourque
Assistant Attorney General

ETB/T